

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

United States District Court
for the
DISTRICT OF HAWAII

2 AUG 29 2008
at 2 o'clock and m
SUE BEITIA, CLERK
M. elya

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: LLOYD P. ALBINIO

Case Number: CR 03-00252SOM-01

Name of Sentencing Judicial Officer: The Honorable Susan Oki Mollway
U.S. District Judge

Date of Original Sentence: 11/17/03

Original Offense: Count 2: Interference With Security Screening Personnel by
Assaulting a Federal Employee, in violation of 49 U.S.C. § 46503,
a Class A felony

Original Sentence: The defendant is hereby committed to the custody of the
United States Bureau of Prisons to be imprisoned for a total term of
37 months to be followed by 5 years of supervised release with the
following special conditions: 1) That the defendant participate in a
substance abuse program, which may include drug testing at the
discretion and direction of the Probation Office; 2) That the
defendant is prohibited from possessing any illegal or dangerous
weapons; 3) That the defendant provide the Probation Office
access to any requested financial information; and 4) That the
defendant participate in a mental health program at the discretion
and direction of the Probation Office.

Type of Supervision: Supervised Release Date Supervision Commenced: 8/2/2006

PETITIONING THE COURT

To modify the conditions of supervision as follows:

General Condition: That the defendant shall refrain from any unlawful use
of a controlled substance. The defendant shall
submit to one drug test within 15 days of the
commencement of supervision and at least two drug
tests thereafter but no more than eight valid drug
tests per month during the term of supervision, unless
there is a positive drug test, in which event the

maximum shall increase to up to one valid drug test per day. (mandatory condition).

Special Condition No. 5: That the defendant perform 16 hours of community service.

CAUSE

The offender's 5-year term of supervised release commenced on 8/2/2006 on the island of Kauai.

On 1/7/2008, a Report on Offender Under Supervision (Probation Form 12A) notified the Court that the offender was arrested by officers from the Kauai Police Department on 11/25/2007 for Terroristic Threatening in the Second Degree, a misdemeanor. This officer further advised the Court that based on the police reports and this officer's interview of the offender and his family, there was a question as to whether the offender committed the offense. In this regard, the offender and his aunt had a verbal shouting match which was initiated by the aunt. This officer also advised the Court that even if the offender was found guilty of the charge, this officer would request sanctions other than revocation unless the offender exhibited similar behaviors towards others. Your Honor agreed not to take action against the offender based upon this officer's report.

On 3/25/2008, the offender appeared before the Fifth Circuit Court, State of Hawaii, and pled to a lesser charge of Harassment, a petty misdemeanor. He was subsequently fined \$250 with no supervision or other conditions.

In light of the offender's conviction for Harassment, this officer is requesting the Court to modify the offender's special conditions to include 16 hours of community service as a sanction for his conviction. Based upon the offender's current full-time work schedule and obligations to his church, the recommended 16 hours will have an impact on the offender's daily activities.

Aside from his 11/25/2007 conduct which led to his 3/25/2008 conviction for Harassment, the offender has been compliant with the conditions of supervision. In this regard, the offender completed mental health treatment and substance abuse treatment and testing, and he has been employed full-time with Stone Tree Construction since his release. Moreover, the offender has reinvolved himself with his church, and performs bible studies and outreach several times a week. Additionally, the offender does keep in constant contact with this officer and submits timely reports when required.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release and/or Extend Term of Supervision. The offender waives his right to a hearing and to assistance of counsel. The U.S. Attorney's Office and the offender's counsel have been notified of the proposed modification and have no objections.

Additionally, the Notice Regarding Modification of Conditions is attached. The offender understands that any modification of Court-ordered conditions is not a waiver of those conditions or of any consequence of violating those conditions. Violations that have preceded this or any modification of conditions may be considered by the Court as a basis for revoking supervised release, especially, but not only, in the event of a future violation, whether any such future violation is similar to or different from any preceding violation.

Respectfully submitted by,


Derek M. Kim
Senior U.S. Probation Officer

Approved by:


GENE DeMELLO, JR.
Supervising U.S. Probation Officer

Date: 8/27/2008

THE COURT ORDERS:

The Modification of Conditions as Noted Above
 Other


SUSAN OKI MOLLWAY
U.S. District Judge
8/28/08
Date

NOTICE REGARDING MODIFICATION OF CONDITIONS

The defendant understands that any modification of court-ordered conditions is not a waiver of those conditions or of any consequence of violating those conditions. Violations that have preceded this or any modification of conditions may be considered by the court as a basis for revoking supervised release or probation, especially, but not only, in the event of a future violation, whether any such future violation is similar to or different from any preceding violation.

The absence of this notice does not confer, and should not be interpreted by the defendant as conferring, any rights on the defendant. The absence of this notice does not indicate, and should not be interpreted by the defendant as indicating, any position by the court or by the defendant. Even in the absence of this notice, supervised release or probation may, in the future, be revoked based on violations occurring before this or any other modification of conditions.

Agreed to and acknowledged:



Defendant

Print Name: LLOYD P. ALBINIO

Date: 8/28/08

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions
of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

To modify the conditions of supervision as follows:

General Condition: *That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than eight valid drug tests per month during the term of supervision, unless there is a positive drug test, in which event the maximum shall increase to up to one valid drug test per day. (mandatory condition).*

Special Condition No. 5: *That the defendant perform 16 hours of community service.*

Witness:


DEREK M. KIM
Senior U.S. Probation Officer

Signed:


LLOYD P. ALBINIO
Supervised Releasee
8/28/08

Date